

**Alabama State Board of Auctioneers**

NOTICE OF INTENDED ACTION

AGENCY NAME: Board of Auctioneers

RULE NO. & TITLE: 150-X-1-.03 Advertisements


INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to amend this rule to require a disclaimer for advertising for Absolute Auctions.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written or oral comments will be received by the Board until 4:30 p.m. on Friday, September 4, 2009. Comments should be directed to Keith E. Warren, Executive Director, at 610 S. McDonough Street, Montgomery, AL 36104 or via electronic mail at [keith@warrenandco.com](mailto:keith@warrenandco.com) or via telephone at 334-269-9990.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:  
Friday, September 4, 2009

CONTACT PERSON AT AGENCY: Keith E. Warren  
Executive Director  
610 S. McDonough Street  
Montgomery, AL 36104  
(334) 269-9990



Keith E. Warren, Executive Director  
Alabama State Board of Auctioneers

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control \_\_\_\_\_ Department or Agency: Alabama State Board of Auctioneers  
Rule No.: 150-X-1-.03  
Rule Title: Advertisements  
\_\_\_\_\_ New X Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly  
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's  
Police power and the protection of the public health,  
Safety, or welfare? Yes

Is there another, less restrictive method of regulation  
Available that could adequately protect the public? No

Does the proposed rule have the effect of directly or  
Indirectly increasing the costs of any goods or services  
Involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public  
Than the harm that might result from the absence of  
The proposed rule? No

Are all facets of the rulemaking process designed solely  
For the purpose of, and so they have, as their primary  
Effect, the protection of the public? Yes

\*\*\*\*\*  
Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be  
accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-  
22-23, Code of Alabama, 1975.

\*\*\*\*\*

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the  
requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all  
applicable filing requirements of the Administrative Procedure Division of the Legislative  
Reference Service.

Signature of certifying officer \_\_\_\_\_

Date: July 16, 2009

**REC'D & FILED**  
(DATE FILED)  
(JUL 17 2009)

**LEGISLATIVE REF SERVICE**

**150-X-1-.03 Advertisements.**

- (a) Any advertisements for auction sale must identify the name and license number of the auctioneer and any apprentices who will be conducting the auction business.
- (b) Apprentice auctioneers must meet the same requirements and must additionally identify their sponsor's name and state license number.
- (c) This rule pertains to any and all advertisements and includes billboards, Internet, television and radio advertisements, etc.
- (d) Auctioneers will be held responsible for all advertising and should take precautions that mistakes do not occur.
- (e) False, deceptive, misleading and untruthful advertising is expressly prohibited. Any advertisement or advertising shall be deemed to be false, deceptive, misleading or untruthful, if it:
  - (1) Contains misrepresentations of facts;
  - (2) Is misleading or deceptive because in its content or in the context in which it is presented, it makes only a partial disclosure of relevant facts;
  - (3) Creates false or unjustified exceptions of the services to be performed;
  - (4) Contains any representation or claim which the advertising licensee fails to perform;
  - (5) Advertises an auction as absolute when any portion to be sold is subject to confirmation or with reserve or with minimum bids. All advertisements for absolute auctions, including, but not limited to brochures, Internet, television and radio advertisements, must contain the following disclaimer in type of legible size, prominently displayed: "Seller reserves the right to withdraw any article or lot from the auction until the auctioneer calls for bids thereon or no bid is made within a reasonable time." The disclaimer shall be tied to an asterisk beside the word "Absolute" where the word appears in a printed advertisement and must be stated audibly in any radio or television advertisement.
- (f) Advertising designed to generate business and let the public know of the availability of an auctioneer's services need not include the auctioneer's name and state license number.
- (g) Auction houses must include the name and license number of the principal auctioneer in any and all advertisements. (34-4-29)